



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Setti D. Warren
Mayor

Telephone
(617)-796-1120

TDD/TTY
(617) 796-1089

Fax
(617) 796-1142

Public Hearing Date:	June 15, 2010
Land Use Action Date:	July 13, 2010
Board of Aldermen Action Date:	August 9, 2010
90-Day Expiration Date:	September 13, 2010

DATE: May 11, 2010

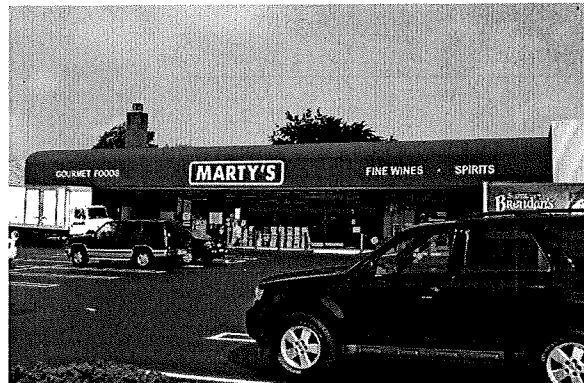
TO: Board of Aldermen

FROM: Candace Havens, Interim Director of Planning and Development
Benjamin Solomon-Schwartz, Senior Planner

SUBJECT: Petition #138-10 MARTY SIEGAL/661-669 WASHINGTON STREET REALTY TRUST petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and EXTENSION OF A NONCONFORMING STRUCTURE to add two additions (containing approx 1,205 sq ft) to the side and front of a commercial building and to waive one parking space at 675 WASHINGTON STREET, Ward 2, on land known as Sec 23, Blk 17, Lot 3, containing approx 33,176 sq. ft. of land in a district zoned BUSINESS 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-19(c)(2), (d), and (m), and 30-15 Table 3 of the City of Newton Rev Zoning Ord, 2007 and Special Permit #714-85.

CC: Mayor Setti D. Warren

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The petitioner proposes a modest addition to the existing building at 675 Washington Street that houses Marty's Fine Wines and Gourmet Foods. The addition involves enclosing an area that is currently covered by a canopy in front of the store and enclosing the recycling area on the side of the store adjacent to Court Street. The proposed changes will add 1,205 sq. ft. to the existing 12,090 sq. ft. store. No other changes are proposed to the site or the use. The addition will facilitate the continuing viability of the existing business and will improve the appearance of the site. The Planning Department recommends several additional changes that will further improve the project.



*View of existing retail store from Washington St.
(above) and proposed façade from intersection of Court
St. and Washington St. (below)*

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When considering this request, the Board should consider whether the proposed changes to the existing retail store are not more detrimental than the existing store and whether the waiver of one parking stall is appropriate.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on Washington Street between Newton Corner and Newtonville. The property is located on the northeast corner of the intersection of Court Street and Washington Street. Washington Street is characterized by commercial uses, but the other properties along Court Street are primarily residential.

B. Site

The 33,176 sq. ft. corner lot is relatively flat. Because Court Street slopes downwards away from Washington Street, there is a retaining wall along the edge of the property that raises the grade of the existing parking lot.

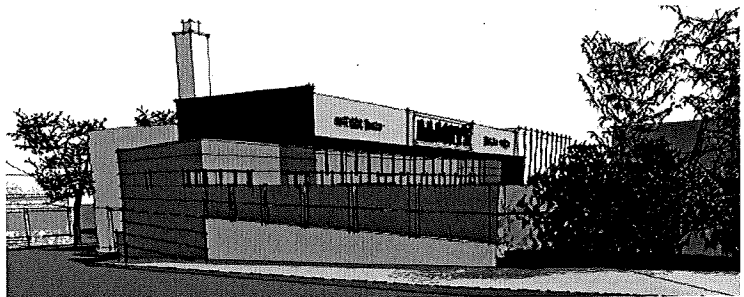
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property is currently used as a liquor store. No changes to the use are proposed.

B. Building and Site Design

The liquor store currently occupies a one-story building on the site. The petitioner proposes to enclose the existing covered area outside of the store, expanding the footprint and improving the façade. In addition, the petitioner proposes to expand the building towards Court Street to enclose the outdoor area currently used for recycling. This expansion would increase the nonconformity of the building with regard to the side setback.



C. Parking

The petitioner proposes to retain the 49 parking spaces currently on site. The Zoning

Review Memorandum (*SEE ATTACHMENT "C"*) provides details on the changes to the parking lot since the prior special permit. Changes that occurred prior to current petition require the amendment of the previously-approved site plan and the waiver of one required parking stall. The parking lot is currently adequate to meet the needs of the retail store and anecdotal evidence suggests that it provides excess capacity. The addition of 1,205 sq. ft. to the existing 12,090 sq. ft. retail store does not substantially change the capacity of the store. Furthermore, adding an additional parking stall would require re-striping the stalls to create narrower stalls, which would be less preferable than the current arrangement.

The parking lot is currently nonconforming with regard to lighting, landscaping and bicycle requirements. ***The Planning Department recommends that the petitioners install racks with the capacity for several bicycles in the covered area in front of the storefront to encourage biking to the retail store and to adjacent stores.***

D. Landscape Screening and Lighting

The petitioners do not propose any landscape screening, but do propose improvements to the vicinity of the retaining wall along Court Street. The enclosure of the existing recycling area will be an improvement to the appearance of the site from Court Street. ***The Planning Department recommends that the fencing be extended and replaced along the entirety of Court Street property line.***

E. Signs

The petitioners have proposed a conceptual sign design for the Washington Street façade. ***The Planning Department recommends that the Urban Design Commission and the Director of Planning and Development review and approve the final sign design.***

IV. COMPREHENSIVE PLAN

The 2007 *Newton Comprehensive Plan* encourages the actions that will ensure the continuing viability of businesses in the City. The proposed modest changes will enable the existing retail store to maintain its local presence while upgrading the appearance of the site.

V. TECHNICAL REVIEW

A. Technical Considerations (Section 30-15 and 30-19). The Zoning Review Memorandum, dated May 5, 2010 (*SEE ATTACHMENT "C"*), provides an analysis of the proposal with regard to Section 30-15, Table 3, and Section 30-19. A special permit is required to expand a legally nonconforming commercial structure, to

waive one required parking space, and to amend the site plan associated with a prior special permit through Board Order #714-85.

B. Other Reviews

1. Engineering. As specified in the Engineering Department memo (*ATTACHMENT "D"*), the petitioner should make several improvements to the site and its boundaries as part of the proposed construction. These improvements should include the extension of the fence along Court Street for the entire length of the property line and the reconstruction of the Washington Street driveway aprons. In addition, the Engineering Department has requested the replacement of the sidewalk along Court Street, the addition of a pedestrian ramp at the bend in Court Street, the addition of 40' of granite curbing, and the re-alignment of granite curbing along Court Street. A construction management plan will be required for this project and should be submitted prior to the issuance of a building permit. No drainage improvements are required because the project will not increase the impervious surface on the site.
2. Fire Department. The Fire Department has reviewed and approved the site plans on the condition that the sprinkler system for the existing building is brought up to current code, including direct Fire Department notification. The sprinkler system for the addition should be tied into this improved system (*SEE ATTACHMENT "E"*).

VI. ZONING RELIEFS SOUGHT

Based on the completed zoning review, dated May 5, 2010 (*SEE ATTACHMENT "C"*), the petitioner is seeking approval through or relief from:

- Section 30-21(b), to expand legally nonconforming commercial structure
- Section 30-10, to waive one required parking space
- Section 30-23, for site plan approval
- Section 30-24, for approval of special permit

The petitioner also seeks approval to amend the site plan associated with previous special permit Board Order #714-85

VII. Summary of Petitioner's Responsibilities

At the Public Hearing, the petitioner should respond to the comments in this memorandum.

ATTACHMENTS

- ATTACHMENT A:** *Zoning Map*
ATTACHMENT B: *Land Use Map*
ATTACHMENT C: *Zoning Review Memorandum, dated May 5, 2010*
ATTACHMENT D: *Engineering Memorandum, dated June 8, 2010*
ATTACHMENT E: *Fire Department Memorandum, dated June 9, 2010*

Zoning Map

675 Washington St.
and Vicinity

City of Newton,
Massachusetts

Legend

	Building Outlines
	Single Res. 1
	Single Res. 2
	Single Res. 3
	Business 1
	Business 2
	Business 4
	Business 5
	Limited Manufacturing
	Manufacturing
	Multi-Res. 1
	Multi-Res. 2
	Multi-Res. 3
	Multi-Res. 4
	Mixed Use 1
	Mixed Use 2
	OS/Rec.
	Public Use
	Surface Water

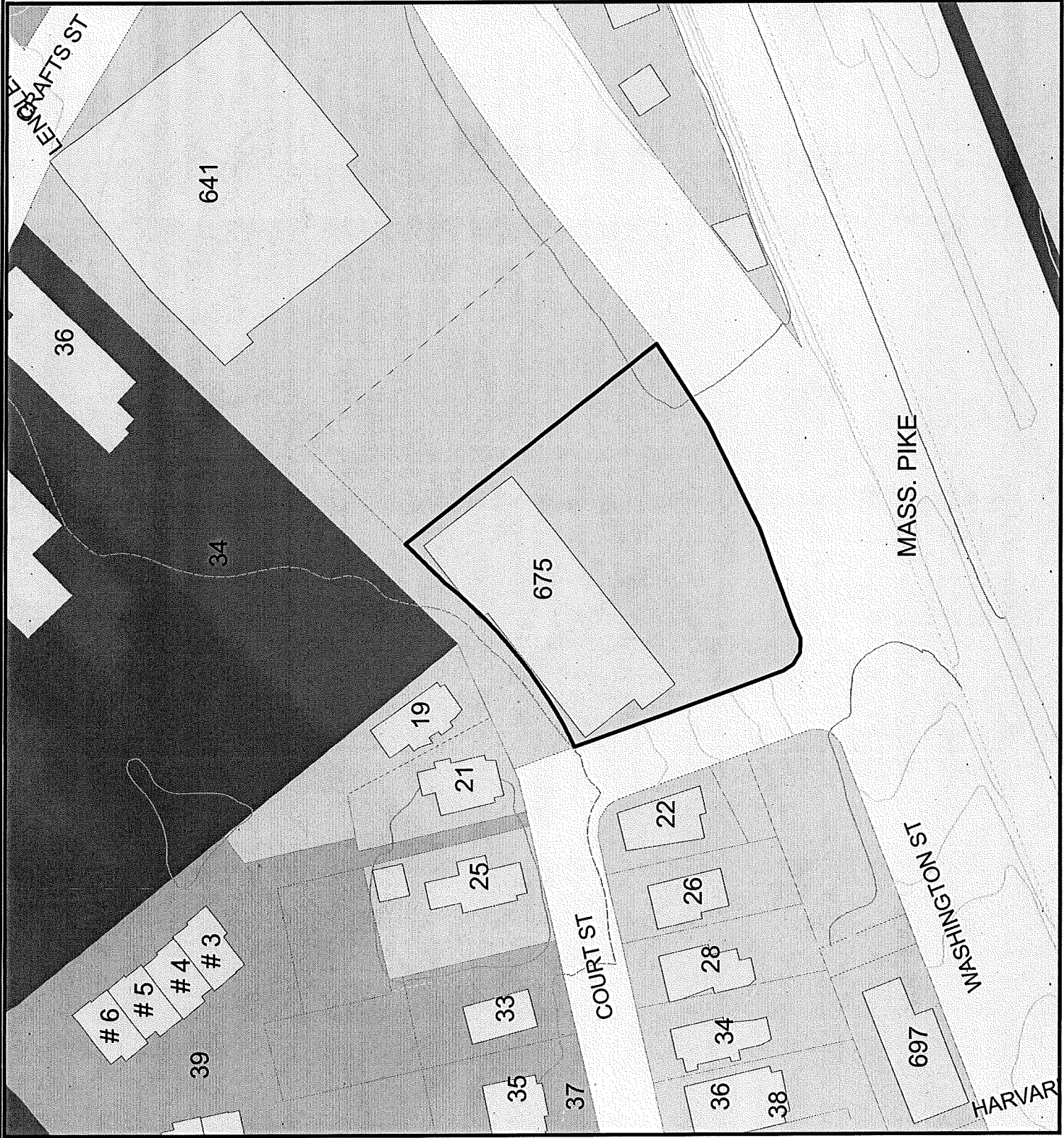
ATTACHMENT A



The information on this
Geographic Information
System cannot guarantee
information. Each user
for determining its suit-
purpose. City depart-
approve applications

0 25 50
Feet

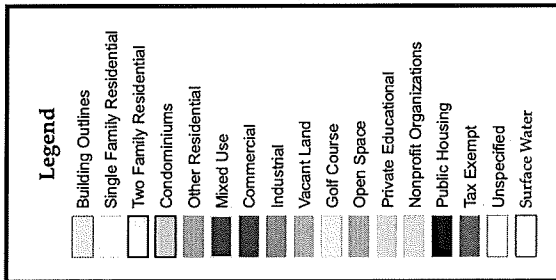
MAP D



Land Use Map

675 Washington St
and Vicinity

City of Newton,
Massachusetts

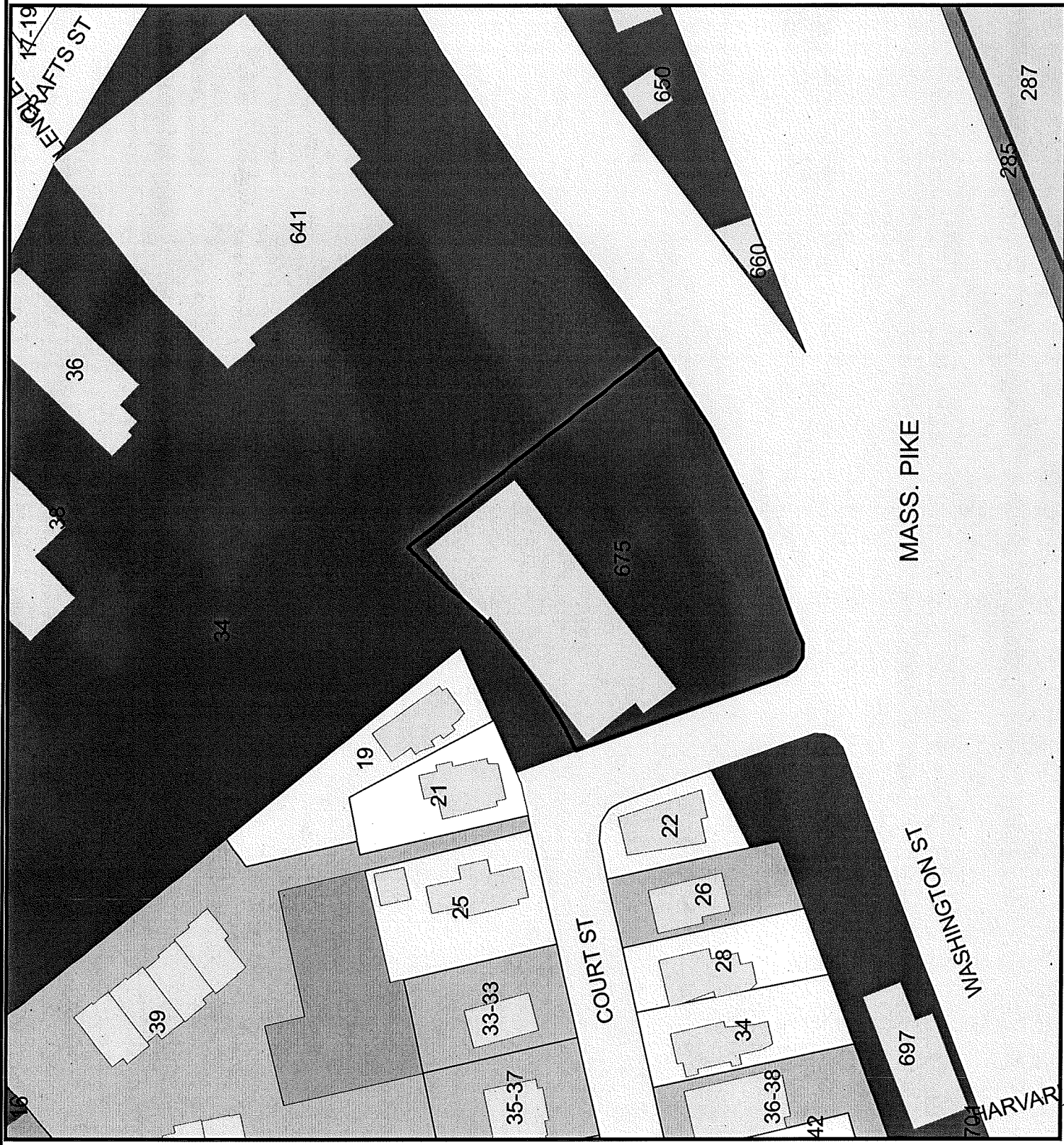


ATTACHMENT B

The information on this map is for informational purposes only. The City of Newton cannot guarantee the accuracy of the information. Each user of the information is responsible for determining its suitability for their own purposes. City departments may not approve applications based on this information.

0 25 50

MAP DATE:



Zoning Review Memorandum

ATTACHMENT C

Dt: May 5, 2010

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official **ET**
Candace Havens, Interim Director, Department of Planning and Development

Cc: Mark Armstrong, architect representing Marty's Liquors
Ouida Young, Associate City Solicitor

RE: Request to allow expansion of a nonconforming commercial building.

Applicant: Marty Siegal	
Site: 675 Washington Street	SBL: Section 23, Block 17, Lots 3
Zoning: BU-2	Lot Area: 33,176 square feet
Current use: Retail Store	Proposed use: Retail Store

Background:

The subject property consists of a 33,176 square foot lot currently improved with a retail store (Marty's Fine Wines and Gourmet Foods). The applicant proposes to expand the existing building with two small additions. The following review is based on materials and plans received to date referenced under Plans and Materials Reviewed.

Plans and Materials reviewed:

- Drawing No: SPEX, "Existing Site Plan, Marty's Fine Wines and Gourmet Foods, 675 Washington Street, Newton, MA 02458," dated Mar 19, 2010, neither signed nor stamped by a licensed professional
- Drawing No: SP1 "Proposed Site Plan, Marty's Fine Wines and Gourmet Foods, 675 Washington Street, Newton, MA 02458," dated Mar 19, 2010, neither signed nor stamped by a licensed professional
- Drawing No: D1, "First Floor Demolition Plan, Marty's Fine Wines and Gourmet Foods, 675 Washington Street, Newton, MA 02458," dated Mar 19, 2010, neither signed nor stamped by a licensed professional
- Drawing No: A1, "First Floor Plan, Marty's Fine Wines and Gourmet Foods, 675 Washington Street, Newton, MA 02458," dated Mar 19, 2010, neither signed nor stamped by a licensed professional
- "Plan of Land in Newton, MA, 675 Washington Street, Existing Conditions," dated December 14, 2009, signed and stamped by Bruce Bradford, Professional Land Surveyor

Administrative determinations:

1. The subject property is located in the BU-2 zone and is subject to the dimensional requirements in Section 30-15, Table 3. The existing building is legally nonconforming with respect to setbacks (see chart below).

Dimensional Control	Required	Existing	Proposed
Number of Stories	2	2	No change
Height	24 feet	26.3 feet	No change
Floor Area Ratio	1.00	0.34	0.37
Minimum Lot Area	10,000 square feet	35,177 square feet	No change
Setbacks			
• Front (Wash.)	Avg.	87 feet	79 feet
• Front (Court)	10 feet (Avg.)	2.6 feet	0.5 feet
• Side	11.45 feet*	3.3 feet	No change
• Rear	0	0.75 feet	No change

* ½ the building height

2. The proposed addition on the west side of the building will increase this nonconformity. In order to enlarge a nonconforming commercial structure, the proponents must obtain a special permit from the Board of Aldermen under Section 30-21(b).
3. The proposed front and side additions to the building will add a total of 1,205 square feet to the existing retail store. Per Section 30-19(d)(10), the existing liquor store requires 46 parking spaces. The enlarged store will need 50 spaces (see chart below).

	Use	Formula for Parking Calculation	No. of Spaces Required
Existing Use	12,090 sq. ft. of retail, 15 employees	1 space/ 300 sq. ft. and 1 space/ 3 employees	46 (41+5)
Proposed Use	13,295 sq. ft. of retail, 15 employees	1 space/ 300 sq. ft. and 1 space/ 3 employees	50 (45+5)

4. The existing parking lot is legally nonconforming with respect to the landscaping, lighting and bicycle parking requirements under Sections 30-19(i), (j), and (k). The area of pavement has not changed since the City enacted dimensional standards for parking facilities. However, in December 1986 a parking layout plan for the property was submitted (pursuant to an approved special permit, Board Order #714-85) showing a different layout than currently exists. Chief among the differences were that the 1986 plan shows 25 foot (compliant) drive aisles but smaller parking spaces (less than the required nine feet by 19 feet.) In addition, the 1986 plan depicts a total of 53 parking spaces while the existing/proposed conditions plans shows only 49 usable parking spaces. It is clear that at some point since 1986, the parking lot was re-striped narrowing the drive aisles and lengthening most of the parking spaces. The result of this re-striping yielded fewer, but more conforming parking spaces. Therefore, the existing/proposed parking plan shows a facility with 49 legally nonconforming

parking spaces. Since the new use requires 50 parking spaces and only 49 are provided on site, the applicant must obtain a special permit from the Board of Aldermen under Section 30-19(m) to waive one parking space.

5. In general, Section 30-11(j) requires site plan approval for commercial buildings with between 10,000 and 19,999 gross square feet. However, this project does not require site plan approval because the proposed addition is only 1,205 square feet. Section 30-11(j) specifically exempts the first addition (after August 1987) to an existing building where the addition is less than 2,000 square feet.

6. See "Zoning Relief Summary" below:

<i>Zoning Relief Summary</i>		
<i>Ordinance</i>		<i>Action Required</i>
	Special Permit	
	Amend site plan associated with previous special permit Board Order #714-85	Approval from the Board of Aldermen
	Site	
§30-15, Table 3, 30-21(b)	Expand legally nonconforming commercial structure	SP per §30-24
	Parking	
§30-19(c)(2), 30-19(d), 30-19(m)	Waive one required parking space	SP per §30-24

CITY OF NEWTON
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghlion, Associate City Engineer

Re: Special Permit – Marty's Fine Wines

Date: June 8, 2010

CC: Lou Taverna, PE City Engineer (via email)
Candice Havens, Acting Director of Planning (via email)
Linda Finucane, Associate City Clerk (via email)
Alexandra Ananth, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*Renovation & Expansion of Marty's Fine Wines & Gourmet Foods
675 Washington Street
Newton, MA*

Prepared by: Mark Armstrong

Executive Summary:

The proposal will expand out the building to the limits of the property line & retaining wall along Court Street. The improvements do not warrant any improvement for drainage as the expansion appears to be over existing impervious surfaces. However based upon a site visit today a few offsite improvements should be considered as benefits to the general public.

1. The two existing driveway aprons along Washington Street should be re-constructed as they are damaged with cracks and do not currently meet ADA & City of Newton Construction Standards.
2. The asphalt sidewalk on Court Street along the existing retaining wall has defects and needs to be replaced with cement concrete, as there is also a need to install approximately 40' of granite curbing along this stretch of sidewalk. Furthermore

the existing granite curb along the upper portion of the cement sidewalk heading towards Washington Street needs to be reset as it is out of line.

3. A new pedestrian curb cut [aka HP ramp] is needed at the intersection of Court Street where the road make a 90° bend.
4. It is unclear from the various vignette's if the existing wooden fence is to remain or if it is planned to be upgraded. Either way the fence should extend down to the existing trash compactor at the corner of Washington & Court Streets.

Construction Management:

1. A construction management plan is needed for this project. At a minimum it must address the following: staging site for construction equipment, construction material, construction worker's vehicles, phasing of the project with anticipated completion dates and milestones, safety precautions, emergency contact personnel of contractor.
2. Stabilized driveway entrances are needed during construction which will provide a tire wash and mud removal to ensure City streets are kept clean. Any debris that migrates out onto City property must be removed immediately.
3. Due to the high volume of traffic on Washington Street it is strongly recommended that Newton Police detail be retained during construction especially for deliveries.
4. The management plan also needs to address how shoppers and pedestrians' will be protected from the construction activities.

Sewer:

1. If the expansion will have a kitchen & food prep area, then a grease trap maybe required on the existing sanitary sewer service to the building per Massachusetts State Plumbing Code.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
3. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
4. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
5. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
6. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.



Setti D. Warren
Mayor

CITY OF NEWTON, MASSACHUSETTS
FIRE DEPARTMENT HEADQUARTERS

1164 Centre Street, Newton Center, MA 02459-1584
Chief: (617) 796-2210 Fire Prevention: (617) 796-2230
FAX: (617) 796-2211 EMERGENCY: 911



Joseph E. LaCroix
Chief

Alderman Ted Hess-Mahan
Land Use Committee
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, Ma 02459

June 9, 2010

Re: Marty's Fine Wine and Gourmet Foods
675 Washington Street

Dear Mr. Hess-Mahan,

The Newton Fire Department has reviewed, and approved, the site plans for the building addition to Marty's Fine Wine and Gourmet Foods located at 675 Washington Street. The approval is on condition that the sprinkler system presently in the building is brought up to current code with direct fire department notification. The sprinkler system installed into the new addition shall be tied into the present system.

We will of course be reviewing the plans relative to Fire Prevention matters during the building permit process.

If you have any questions, please do not hesitate to call me at 796-2210.

Sincerely,

Bruce A. Proia
Chief of Operations

Cc: Mark Armstrong, Architect
Deputy Chief Michael Castro, Fire Prevention
✓ Ben Solomon-Schwartz, Planning and Development